IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

MICHAEL CUMMINGS, #781649	§	
VS.	§	CIVIL ACTION NO. 6:04cv473
DR. KEN KUYKENDALL, ET AL.	§	

ORDER OF DISMISSAL

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Judith K. Guthrie, who issued a Report and Recommendation concluding that the complaint should be dismissed with prejudice pursuant to 28 U.S.C. § 1915A(b)(1). The Plaintiff has filed objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Plaintiff to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of the Plaintiff are without merit. The facts as alleged and developed in the *Martinez* Report reveal that medical personnel have carefully and repeatedly examined the Plaintiff and have been responsive to his medical needs concerning his right hand. The Defendants were not deliberately indifferent. The fact that the Plaintiff is unsatisfied with the care provided and that he still experiences pain in his hand does not support an inference of deliberate indifference. *See Johnson v. Treen*, 759 F.2d 1236, 1238 (5th Cir. 1985). Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

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ORDERED that the cause of action is **DISMISSED** with prejudice pursuant to 28 U.S.C.

§ 1915A(b)(1). All motions not previously ruled on are hereby **DENIED**.

So ORDERED and SIGNED this 28th day of April, 2005.

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LEONARD DAVIS
UNITED STATES DISTRICT JUDGE

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